

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 809**

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**Introduced by Assembly Member Logue**  
(Coauthor: Senator Galgiani)

February 21, 2013

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An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

~~This bill would allow the verbal consent for the use of telehealth to apply in the present instance and for any subsequent use of telehealth.~~ *require the health care provider initiating the use of telehealth at the originating site to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the consent in the patient's medical record and to transmit that documentation with the initiation of any telehealth to any distant-site health care provider from whom telehealth is requested or obtained. The bill would require a distant-site health care*

*provider to either obtain confirmation of the patient's consent from the originating site provider or separately obtain and document consent from the patient about the use of telehealth, as specified.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2290.5 of the Business and Professions  
2 Code is amended to read:

3 2290.5. (a) For purposes of this division, the following  
4 definitions shall apply:

5 (1) "Asynchronous store and forward" means the transmission  
6 of a patient's medical information from an originating site to the  
7 health care provider at a distant site without the presence of the  
8 patient.

9 (2) "Distant site" means a site where a health care provider who  
10 provides health care services is located while providing these  
11 services via a telecommunications system.

12 (3) "Health care provider" means a person who is licensed under  
13 this division.

14 (4) "Originating site" means a site where a patient is located at  
15 the time health care services are provided via a telecommunications  
16 system or where the asynchronous store and forward service  
17 originates.

18 (5) "Synchronous interaction" means a real-time interaction  
19 between a patient and a health care provider located at a distant  
20 site.

21 (6) "Telehealth" means the mode of delivering health care  
22 services and public health via information and communication  
23 technologies to facilitate the diagnosis, consultation, treatment,  
24 education, care management, and self-management of a patient's  
25 health care while the patient is at the originating site and the health  
26 care provider is at a distant site. Telehealth facilitates patient  
27 self-management and caregiver support for patients and includes  
28 synchronous interactions and asynchronous store and forward  
29 transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth at the originating site shall ~~verbally~~ inform the patient about the use of telehealth and ~~request the patient's~~ *obtain verbal or written consent, which may apply in the present instance and for any subsequent use of telehealth.* *from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment.* The ~~verbal~~ consent shall be documented in the patient's medical ~~record.~~ *record, and the documentation shall be transmitted with the initiation of any telehealth for that specified course of health care and treatment to any distant-site health care provider from whom telehealth is requested or obtained. A distant-site health care provider shall either obtain confirmation of the patient's consent from the originating site provider or separately obtain and document consent from the patient about the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment.*

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a *specified* course of *health care and treatment* after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on

1 information provided by the distant-site hospital or telehealth  
2 entity, as described in Sections 482.12, 482.22, and 485.616 of  
3 Title 42 of the Code of Federal Regulations.

4 (2) By enacting this subdivision, it is the intent of the Legislature  
5 to authorize a hospital to grant privileges to, and verify and approve  
6 credentials for, providers of telehealth services as described in  
7 paragraph (1).

8 (3) For the purposes of this subdivision, “telehealth” shall  
9 include “telemedicine” as the term is referenced in Sections 482.12,  
10 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

11 SEC. 2. This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety within  
13 the meaning of Article IV of the Constitution and shall go into  
14 immediate effect. The facts constituting the necessity are:

15 In order to protect the health and safety of the public due to a  
16 lack of access to health care providers in rural and urban medically  
17 underserved areas of California, the increasing strain on existing  
18 providers expected to occur with the implementation of the federal  
19 Patient Protection and Affordable Care Act, and the assistance that  
20 further implementation of telehealth can provide to help relieve  
21 these burdens, it is necessary for this act to take effect immediately.